

AGENDA MEMO

CITY COUNCIL MEETING DATE: AUGUST 2, 2006

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: SUP-12667 - APPLICANT: CINGULAR WIRELESS - OWNER: SOUTHWESTCO WIRELESS

THIS ITEM WAS HELD IN ABEYANCE FROM THE AUGUST 2, 2006 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.

**** CONDITIONS ****

The Planning Commission (6-0-1 vote) and staff recommend DENIAL. If approved, subject to:

Planning and Development

1. Conformance to all Minimum Requirements under LVMC Title 19.04.050 for Wireless Communication Facility, Non-Stealth Design use.
2. Approval of and conformance to the Conditions of Approval for a Variance (VAR-12666) and Site Development Plan Review [(Z-25-68(3))] shall be required.
3. Conformance to all applicable conditions of approval of Plot Plan Review Z-0025-68(3), including provision of an eight-foot high decorative block wall, wrought iron fence, or combination of the two around the tower and shelter area. New walls must match those approved in the aforementioned case.
4. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
5. The communications monopole and its associated equipment and facility shall be properly maintained and kept free of graffiti at all times. Failure to perform the required maintenance may result in fines and/or removal of the communications monopole and its associated equipment and facility.
6. The proposed antenna to be added shall be painted to match the color of the existing pole and antennas.
7. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

APPLICATION REQUEST

This is a request for a Special Use Permit for the addition of a full array antenna to an existing wireless communication facility, non-stealth design at 840 North Decatur Boulevard.

EXECUTIVE SUMMARY

The subject request would expand a non-conforming use by adding an antenna to an existing tower and violate standards in place to protect adjacent residential property from uses of this type. While the subject proposal will not add height to the existing tower, this request is not supported due to the aforementioned measures in place that are intended to protect surrounding properties. The addition of an antenna will only increase the incompatibility with surrounding land uses and increase the visual effect of the tower within the subject area.

BACKGROUND INFORMATION

A) *Related Actions*

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|----------|--|
| 08/28/68 | The City Council approved a Rezoning (Z-0025-68) to C-1 (Limited Commercial) on the subject site. The Planning Commission recommended denial. |
| 06/05/74 | The City Council approved a Rezoning (Z-0019-74) to R-PD8 (Residential Planned Development – 8 units per acre) on property to the east of the subject site. The Planning Commission and staff recommended approval. |
| 11/30/95 | The Planning Commission approved a Plot Plan Review [Z-0025-68(3)] for a proposed 70-foot tall Wireless Communications Facility on the subject site adjacent to the King's Ranch Market. This approval was prior to the adoption of Title 19A, which contained Residential Adjacency Standards affecting the proposal. Staff recommended approval. |
| 12/23/96 | A building permit (#96025382) was issued for a wireless communications monopole at 840 North Decatur Boulevard. A special inspection was completed 01/09/97. |
| 03/24/97 | The City Council adopted Ordinance No. 4073, amending the Las Vegas Zoning Code as Title 19A. Residential Adjacency Standards were established therein. |
| 07/14/97 | The City Council approved a Rezoning (Z-0045-97) to PD (Planned Development) on the subject site. The City Council rescinded this action on 01/12/98, and the zoning designation of the property reverted to C-1 (Limited |

Commercial). Staff recommended approval of both the Rezoning to PD and the rescission of the earlier approval.

- 03/22/99 The City Council accepted the Withdrawal Without Prejudice of the appeal of the Planning Commission's denial of a Special Use Permit (U-0001-99) for a proposed 60-foot tall Wireless Communications Tower south of the existing convenience store adjacent to the subject site. Staff recommended denial.
- 11/21/01 Final permits were issued for the existing wireless communication tower (L-4716-01).
- 03/16/05 The City Council approved Ordinance No. 5754, which eliminated Redevelopment Area status as a determinant of Residential Adjacency Standards and certain setback requirements. As a result, the subject site is not exempt from application of Residential Adjacency Standards.
- 01/04/06 The City Council denied a request for a Special Use Permit (SUP-9785) for a proposed 20-foot extension to the existing 60-foot tall Wireless Communication Facility, Non-Stealth Design on the subject site and a Variance (VAR-9789) to allow an 86-foot setback from residential property where residential adjacency standards require a 240 foot minimum setback for a proposed 20-foot extension to an existing 60 foot tall wireless communication facility, non-stealth design. The Planning Commission and Staff recommended denial of these requests.
- 05/11/06 The Planning Commission voted (6-0-1) to recommend DENIAL (PC Agenda Item #34/stf).

B) Pre-Application Meeting

- 03/21/06 A pre-application meeting with the applicant was held and the following items were discussed:
- Staff noted that the current request is a lesser one than previous requests. As such, it can move forward within one year of previous requests.
 - Staff review determined that the facility is incompatible with surrounding uses.
 - Staff informed the applicant that he or she will be required to paint the new antennas to match the existing one and that an eight-foot block wall would be required for screening purposes.

C) Neighborhood Meetings

A neighborhood meeting is not required as part of this application request, nor was one held.

DETAILS OF APPLICATION REQUEST

A) *Site Area*

Gross Acres: .50

B) *Existing Land Use*

Subject Property: Service Commercial
 North: Non-Profit Organization (Municipal Golf Course)
 South: Service Commercial
 East: Townhouses
 West: Service Commercial

C) *Planned Land Use*

Subject Property: SC (Service Commercial)
 North: PF (Public Facilities)
 South: SC (Service Commercial)
 East: ML (Medium-Low Density Residential)
 West: SC (Service Commercial)

D) *Existing Zoning*

Subject Property: C-1 (Limited Commercial)
 North: C-V (Civic)
 South: C-1 (Limited Commercial)
 East: R-PD8 (Residential Planned Development – 8 Units per Acre)
 West: C-1 (Limited Commercial)

E) *General Plan Compliance*

The subject property is located in the Southeast Sector of the General Plan. Within that Sector, it has a land use designation of SC (Service Commercial). This designation is compatible with the underlying C-1 (Limited Commercial) zoning.

SPECIAL DISTRICTS/ZONES	Yes	No
Special Area Plan		X
Special Overlay District	X	
Airport Overlay District	X	
Trails		X
Rural Preservation Neighborhood		X
Development Impact Notification Assessment		X
Project of Regional Significance		X

ANALYSIS

A) *Zoning Code Compliance*

A1) There are no minimum distance separation requirements pertaining to wireless communication facilities in a C-1 (Limited Commercial) zoning district. However, Residential Adjacency standards do apply. For the existing 60-foot tall facility, a minimum setback of 180 feet from property developed for sale is required to meet the 3:1 proximity slope. The proposed antennas would be set back 87.5 feet from the propertyline of the existing townhomes east of the subject site. The applicant has filed a Variance request (VAR-12666) for relief from the Residential Adjacency Standards.

A2) Pursuant to Title 19.04, the following Standards apply to the subject proposal:

Wireless Communication Facility, Non-stealth Requirements	Provided	Compliance
No residential use may exist on the property.	The subject property is a commercial center with no residential uses on the site.	Yes
Any antenna tower that forms part of the facility shall conform with both the setback requirements of the zoning district and Residential Adjacency separation requirements.	The facility does not meet current Residential Adjacency setback standards.	No
Except in the C-V Zoning District, no antenna tower that forms part of the facility may be located within 600 feet of: <ul style="list-style-type: none"> a. Any other antenna tower that forms part of a wireless communication facility; or b. Any pole or tower structure of any other type that has a height of at least 60 feet. 	There are no antenna towers within 600 feet of the subject site.	Yes

Antenna towers and associated components shall be initially painted and thereafter repainted with a flat paint, using a color that is approved by the City Council. Except as otherwise required by the Federal Communications Commission or the Federal Aviation Administration, the color of any antenna tower must generally match the surroundings or background so as to minimize its visibility.	The color of the existing antenna tower is silver/gray and the proposed antenna will match it.	Yes
Failure to perform necessary maintenance and repainting shall be grounds for administrative and other enforcement action, including action pursuant to Condition 9 below.	N/A	N/A
Any proposed antenna tower must be designed to accommodate at least two communication providers or, in the case of a tower that exceeds eighty feet in height, at least three communications providers.	The existing tower accommodates one provider's antennas; the proposed addition would allow for a second provider at 10 feet below the current antenna.	Yes
No signals, lights, or other attention gaining devices are permitted on any antenna tower or antenna unless required by the Federal Communications Commission or the Federal Aviation Administration; provided, however, that this condition shall not be construed to prevent the mounting of an antenna on a signal, light or sign that has been legally permitted and installed.	No signals, lights or other attention gaining devices exist or are proposed on the subject antenna tower.	Yes

All ground level equipment, buildings and the base of any antenna tower must be screened so as to not be visible from streets and residences, with appropriate landscaping designed to ensure compatibility with surrounding uses.	The base of the antenna is screened by 6.9-foot CMU walls; Equipment is located adjacent to the pole within a proposed shelter.	Yes, although condition of original approval required eight-foot decorative wall
Any abandoned or unused antenna tower, and the associated components of any facility, shall be removed within six months after operations at the site cease. In the event that removal is not timely performed, the City may remove, or cause the removal of, the antenna tower and associated components, and assess the costs of removal against the property. Before taking such action, the City must deliver or mail to the property owner a notice of the City's intent to do so. The property owner shall have 30 days from the date notice is delivered or mailed to request a hearing. The failure to request a hearing shall be deemed to be a waiver of the right to be heard, and the City may immediately cause the removal of the antenna tower and any associated components, and may assess the costs against the property.	Currently active license.	Yes

The non-waivable base conditions for approval of a Special Use Permit for a Non-Stealth Wireless Communication Facility are met by the proposal to co-locate an antenna on the existing tower, except for the Residential Adjacency setback, which is 87.5 feet where 180 is required. If the related Variance to allow the reduced setback is not approved, the Special Use Permit for the Wireless Communications Facility, Non-Stealth use cannot be approved. The existing screen wall around the facility is lower than the eight-foot height conditioned by its original approval. A new condition of approval addresses this deficiency and requires that new walls match the height of the previously approved walls.

B) General Analysis and Discussion

- Zoning

The subject site is zoned C-1 (Limited Commercial). Wireless Communication Facilities are permitted uses in this zoning district; however, the subject tower requires a Special Use Permit because it does not meet the criteria specified in Title 19.04.040 for conditional approval, specifically the requirement that it be compatible with surrounding uses.

- Use

The existing antenna tower was approved in November 1995 and completed in January 1997. It is of a non-stealth design as defined in Title 19.20, containing full antenna arrays from another wireless provider. The proposal is to co-locate additional antennas at 50 feet. No extension of the tower is proposed.

The existing tower was constructed prior to the adoption of Residential Adjacency Standards, which now apply to the subject site. Additionally, properties within the Redevelopment Area had been exempt from application of these standards until March 2005. This proposal would expand the nonconforming use on the site due to the additional antenna and the associated shelter that will be added. As such, the addition would create a more intense use adjacent to residential properties and there are other, more suitable sites available to the applicant where a stealth design facility can be located. Furthermore, Title 19.00.35 stipulates that these types of facilities should create minimal visual effect and be located where there is minimal impact on existing residential development. This location is not amenable to expansion of the use due to the proximity to residential uses.

- Conditions

The subject antenna tower will meet the base conditions necessary for approval of a Special Use Permit for a Wireless Communication Facility, Non-Stealth Design if the related Variance (VAR-12666) is approved. Approval of this Special Use Permit does not expunge the original Plot Plan Review for the existing tower, as there were other site-related conditions required for that approval. Condition Number 1 of that approval required an eight-foot high block wall, wrought iron fence, or combination of the two around the tower and building area which has not been satisfied. In addition, maintenance of the existing landscaping along Washington Avenue was required. Therefore, these conditions also must be met as a general condition of approval of this Special Use Permit.

FINDINGS

In order to approve a Special Use Permit application, per Title 19.18.060 the Planning Commission and City Council must affirm the following:

1. **“The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.”**

As the existing use is already non-conforming and any expansion of it would be incompatible with surrounding land uses, this request is not supported.

2. **“The subject site is physically suitable for the type and intensity of land use proposed.”**

The site is physically capable of accommodating the proposed co-location.

3. **“Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

This requirement is not applicable because the wireless communication tower will not attract additional traffic to the site.

4. **“Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

The proposed use will not compromise the public health, safety, and welfare because the use will be constructed in compliance with applicable building codes.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 34

SENATE DISTRICT 4

NOTICES MAILED 231 by City Clerk

APPROVALS 0

PROTESTS 2